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ABSTRACT

School choice is one of the most debated aspects of the current education reforms. This report provides an overview of the issue of elementary and secondary school choice as it is being debated in the 102nd Congress. Under a school choice program, parents and students have a greater opportunity to influence where students enroll. The report assesses the context within which choice is being considered; the variety of such programs currently; how Federal legislative proposals address choice; and the issues such proposals raise. Key issues that are being debated as choice is considered include the following: the kind of accountability that should be applied to private schools, if they participate; whether inclusion of private, sectarian schools in a publicly funded choice program violates the U.S. Constitution; and what effects choice programs may have on educational quality, racial and ethnic segregation, and socioeconomic segregation. (17 footnotes) (MLF)

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CRS Report for Congress

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School Choice: Status and Issues

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January 2, 1992

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SCHOOL CHOICE:
STATUS AND ISSUES

SUMMARY

School choice is one of the most debated aspects of the current education reforms. Support for choice is sparked by the view that choice is an important lever to change public education bureaucracies, to empower parents and involve them in their children's education, and to complement site-based management, another popular education reform in which principals and teachers gain greater direct control over their schools. Opposition to choice stems, in part, from concern that it will have adverse consequences for educational equity, leading to greater segregation of pupils by race, ethnicity, and income. Further, it is argued that attention to choice deflects resources from more fundamental reforms, involving such issues as school finance equity and establishing quality educational programs for all children.

Choice programs, both current and proposed, come in various shapes and sizes. Over half of the States have implemented some kind of choice program. Not all of the possible kinds of choice are mutually exclusive. Among the existing kinds of choice programs are:

- intradistrict choice programs in which choice is limited to schools within particular districts;
- interdistrict choice involving movement of students across school district boundaries;
- postsecondary option programs which offer secondary school students the choice of taking courses at postsecondary institutions with credit being given toward high school graduation; and
- choice programs involving public **and** private schools.

At the Federal level, efforts to fashion education reform programs involve proposals for school choice. AMERICA 2000, advanced by the President, would provide substantial Federal assistance to school choice programs open to public and private schools. H.R. 3320, reported by the House Education and Labor Committee, would permit local educational agencies to use Federal assistance provided under this legislation for choice programs to the extent permitted by State law and constitutions; and S. 2, reported by the Senate Labor and Human Resources Committee, would authorize Federal funding for school choice programs limited to public schools only.

Key issues that are being debated as choice is considered include the following: the kind of accountability that should be applied to private schools, if they participate; whether inclusion of private, sectarian schools in a publicly funded choice program violates the U.S. Constitution; and what effects choice programs may have on educational quality, racial and ethnic segregation, and socioeconomic segregation.

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SCHOOL CHOICE: STATUS AND ISSUES

INTRODUCTION

This report provides an overview of the issue of elementary and secondary school choice as it is being debated in the 102d Congress. Under a school choice program, parents and students have a greater opportunity to influence where students enroll. The report assesses the context within which choice is being considered; the variety of such programs currently; how Federal legislative proposals address choice; and the issues such proposals raise. This report is, in part, an updating of a previous Congressional Research Service (CRS) report that focused on public school choice only.[1] The scope of the current report reflects the broadening of the public policy debate on this issue.

A brief overview of the findings follows. School choice is part of a debate over the ways of reforming elementary and secondary education. Concerns about choice center on the consequences of choice for, among other things, the racial, ethnic, and socioeconomic segregation of pupils, and the possibility that public funds would directly subsidize enrollment in private, sectarian schools. The latter issue--inclusion of private, sectarian schools--is one of the most contentious points in the current debate.

There is no single, consensus model of a school choice program. Current choice efforts vary with regard to their geographic dimensions--intradistrict, interdistrict, statewide. They differ as to the levels of education involved--elementary and secondary education, postsecondary education options for secondary school students--and the educational sector involved--public schools only, public and private schools. Interest in choice is high. Over half of the States have implemented one or more choice programs.

Legislative initiatives are under consideration by the 102d Congress that would provide Federal financial support to school choice programs. The House Education and Labor Committee and the Senate Labor and Human Resources Committee have reported bills (H.R. 3320, S. 2) that could, to varying degrees, permit Federal funds to be used for school choice programs. The President's AMERICA 2000 education reform strategy strongly endorses school choice, including all private schools, as a necessary element for revitalizing U.S. schools.

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[1]U.S. Library of Congress. Congressional Research Service. *Public School Choice: Recent Developments and Analysis of Issues*. CRS Report for Congress No. 89-219 EPW, by Wayne Riddle and James B. Stedman. Washington, 1989. (Hereafter cited as Congressional Research Service, *Public School Choice*)

Given the diversity in existing choice programs and the paucity of evaluative data on school choice, definitive conclusions about the potential impact of implementing choice and of Federal subsidy of choice programs are problematic. If private schools are involved in choice programs, it appears that some form of accountability will be applied and that, at least under current interpretations of the Federal civil rights statutes, those statutes may well cover participating private schools. Whether public subsidy for enrollment in private, sectarian schools is acceptable under the U.S. Constitution cannot be determined in the absence of a fully delineated and enacted program. With regard to educational quality, there is no conclusive evidence whether choice programs, *per se*, improve the quality of education offered to students. Racial and ethnic segregation appears not to be an inevitable outcome of choice programs. Finally, it is noted that one of the least debated, albeit potentially important, aspects of choice is its potential consequences for the distribution of pupils according to their socioeconomic status.

CURRENT CONTEXT--ACTION AND ARGUMENT

School choice has emerged as one of the more **controversial** and more **popular** education reform proposals under consideration in the States and in the U.S. Congress. A school choice program enables parents to select the elementary and secondary schools in which their children enroll. Over half of the States have implemented one or more different choice programs or pilot projects of various kinds.[2] At the Federal level, the President's AMERICA 2000 proposal calls for federally supported choice programs that would include private, sectarian schools (H.R. 2460/S. 1141). Alternatives to AMERICA 2000 before the Congress take different approaches to choice. H.R. 3320, recently reported by the House Education and Labor Committee, would allow Federal funding to support those school choice programs that are permitted by State law or constitution. The Senate Labor and Human Resources Committee has reported S. 2 which would permit Federal support for choice programs involving public schools only.

The current focus on choice gains much of its impetus from a desire to improve educational achievement. Advocates view choice as a key means of reforming elementary and secondary education. Choice, it is argued, will empower parents, regardless of race, ethnicity, or socioeconomic status, engaging them more fully as partners in their children's education. These active parents, who can move their children from a failing or unresponsive school, will provide a needed counterbalance to education bureaucracies that limit the possibility of fundamental reform. Many reformers also tie choice to another popular reform initiative--site-based management. According to them, as principals and teachers assume greater control over the destiny of their individual schools, those schools

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[2]Data on State action relative to enactment of choice legislation, reported here and elsewhere in this report, are primarily drawn from, Education Commission of the States. *Clearinghouse Notes*. Denver, Nov. 1991, and National Governors' Association. *Results in Education: 1990*. Washington, 1990.

will be less and less alike. Choice will be a logical complement to that diversity and a needed accountability measure, as well.

Some of the controversy over choice has arisen because of concern from those who believe that choice runs counter to the traditional Federal role in support of equity in education; they assert that it will lead to, among other outcomes, increased racial, ethnic, and socioeconomic segregation among schools of substantially different quality. Of concern is that these programs may contain intended or unintended barriers to the exercise of choice for some kinds of students and families. Some suggest that the children in most need of educational improvement may be in families that are least likely to use the choice option. These critics fear an emphasis on marketing schools to parents and students without serious attention to quality. Reshaping of the schools most in need will not occur, they believe, because the most knowledgeable and involved parents will shift their children to other schools. Some call for other reforms, such as school finance equalization, that, they assert, are necessary precursors to any constructive use of choice, or that may eliminate the need for choice altogether. Some suggest that programs to improve the education of **all** children, no matter what schools they enroll in, are necessary first steps before promoting choice among schools. The inclusion of private schools in a choice plan, critics argue, will undermine public education and the public good it serves by depleting necessary funds and other resources for public education, and, if private sectarian schools are included, may violate the establishment of religion clause of the First Amendment.

VARIATIONS OF CHOICE

Current choice programs and proposals differ with regard to a host of characteristics. In general, the following kinds of programs are central to the policy debate on choice. Not all are mutually exclusive program types. Further, there is clearly no consensus model of a choice program. We would also note that, even in the absence of a specific choice program, some parents and students may have educational options, including relocating their place of residence from a particular attendance area or a particular school district, or enrolling in private schools.

Intradistrict Choice

Intradistrict choice programs offer an array of different choice options, all within the confines of school district boundaries.[3] These programs can permit selection among different programs within a particular school building, among a number of different schools within the district, or among all schools. They may be limited to students with particular educational or other needs, or to particular grade levels.

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[3]See, Congressional Research Service, *Public School Choice*; and Raywid, Mary Anne. The Mounting Case for Schools of Choice. *Public Schools of Choice: Expanding Opportunities for Parents, Students, and Teachers*. Edited by Joe Nathan. St. Paul, Minn., 1989.

Magnet or alternative schools or programs are the primary examples of intradistrict choice. It is estimated that, in the early 1980s, there were more than 1,200 magnet schools in districts throughout the country. These programs offer students the option of attending different schools or programs within their school district. Most involve choice among a relatively limited number of schools or programs. Magnet schools and programs offer distinctive educational content or structure, often within the framework of a school desegregation plan. Some are available to a relatively small number of students within a district, such as the magnet program in Montgomery County, Maryland. Others provide districtwide choice to all students or to all students in particular grades. School systems with districtwide programs include Montclair, New Jersey, and Cambridge, Massachusetts. The programs in these two districts are known as **controlled choice** programs because of the careful monitoring of the choice process to ensure that it fosters racial and ethnic desegregation.

Alternative schools and programs are generally available to students whose needs are not met in a district's regular schools or programs. For example, these programs may be available for students at risk of dropping out or for drop outs who are returning to school. Districts with such programs include Jackson, Mississippi, and Portland, Oregon. In the early 1980s, some 2,500 alternative high school programs were in operation.

State legislation to support intradistrict choice in one or more districts within the State has been enacted in more than half a dozen States, including Alabama, Michigan, and Wisconsin.

Interdistrict Elementary and Secondary Choice

Interdistrict choice programs at the elementary and secondary level also exhibit a variety of features and objectives. Of most interest to the current policy debate are the statewide programs that require districts to accept students who choose to attend from other districts and to permit their students to attend in other districts. These vary with regard to several issues, such as the financial consequences for sending and receiving districts, the extent to which transportation costs are met with public funds, the attention to the consequences for the distribution of racial and ethnic minorities, the acceptable reasons for parental exercise of the choice option, and the number of students involved. Among the nearly one dozen States currently engaged in such programs are Minnesota, Iowa, and Arkansas.

Among the other programs in this category are the so-called "second chance" programs that permit students with special needs to be served in publicly funded programs and schools without attention to school district boundaries. These appear largely to be addressing the needs of students at risk of dropping out or those returning to complete high school. Minnesota and Colorado offer these programs. Other relevant programs include the public, special-focus high schools that enroll students from throughout their States. At least seven States, including North Carolina and Illinois, support these residential schools which focus on specific subject areas, such as mathematics, science, and the arts. Also

of importance are the cross-district desegregation plans that permit students from one school district to attend schools in another for purposes of desegregating schools. For example, Hartford, Connecticut, and St. Louis, Missouri, are involved in such programs.

Postsecondary Option Programs

Under postsecondary option programs, States meet the costs of postsecondary education courses taken by high school students who earn credit toward high school graduation. These programs are generally intended to increase the range of academic offerings available to secondary school students. They may be open to enrollment in private, as well as, public colleges. At least nine States, including Florida and Colorado, offer postsecondary option programs.

Private School Choice

Of increasing prominence in the public policy debates on choice is the question of whether public funds should be used to finance student attendance at private schools, particularly ones that are sectarian (religiously affiliated). Currently, there are a limited number of such programs, some applying only to enrollment in nonsectarian schools. For example, State legislation in Wisconsin permits low income parents in the Milwaukee school district to select their children's schools from among eligible nonsectarian private schools. Not more than 1 percent of the students in the Milwaukee school district may participate in this program. In Vermont, some towns without a public high school pay tuition expenses for their secondary school students at public and private nonsectarian high schools. Further, Iowa, Louisiana, and Minnesota provide State income tax allowances for some portion of the tuition or educational expenses met by parents in educating their children at public and private elementary and secondary schools, including sectarian institutions.[4]

Several new initiatives related to choice involve private schools. Some private business corporations are planning or implementing programs to subsidize low income parents of public school children who want to enroll them in private schools. Among the most prominent of these efforts is that initiated by the Golden Rule Insurance Company for students in the Indianapolis public schools. Another associated effort promotes establishment of **charter** or **outcome-based** schools. These involve the publicly subsidized creation of independent schools that will be part of the public school system, but subject to few public rules and regulations. Student performance will be the primary accountability measure. These schools, proponents argue, will be free to be creative and innovate, and will offer "real" options in choice programs. Minnesota enacted legislation in 1991 to support eight pilot **charter** schools, not more than two per district. At the Federal level, legislation has been

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[4]U.S. Library of Congress. Congressional Research Service. *Tuition Tax Credits*. CRS Report for Congress No. 91-230 EPW, by Bob Lyke. Washington, 1991.

introduced to provide Federal funding for **outcome-based** public schools (S. 1606).

FEDERAL PROPOSALS

The 102d Congress has under active consideration three pieces of legislation that would, to varying degrees, provide Federal support to choice programs. These are described below.

AMERICA 2000

The President's AMERICA 2000 proposal (H.R. 2460/S. 1141) includes three choice initiatives. The first amends the Elementary and Secondary Education Act's **chapter 1 program** to require that its assistance follow students to their new schools when they participate in a choice program. The proposed legislation defines an **educational choice program** as one in which parents choose their children's school; it does not explicitly require that such program include private school enrollment. Background documents for AMERICA 2000 define the kind of choice program the educational strategy is to support as including **both** public and private schools. Currently, chapter 1, the Federal Government's major program for educationally disadvantaged students, supports compensatory education services for eligible public and private school students. The proposal would require a local educational agency (LEA) to provide supplementary compensatory education services to any student who would have been served by chapter 1 and who participates in a choice program. If a LEA decides that providing these services to a child is not possible or practical in his or her choice school, it would allocate a "per-child share" of its chapter 1 funding to the parents of that child. This share would equal the district's annual chapter 1 allotment, minus any administrative expenses, divided by the number of children receiving services under the program. Parents could only use their share to pay the costs of supplementary compensatory education meeting their child's needs, or the costs of transportation related to participation in a choice program.

This particular choice proposal has sparked debate for various reasons.[5] Some of those reasons are considered in the concluding section of this report. It is appropriate at this juncture to address those issues that are specific to modifying the chapter 1 program in support of choice. Attention has centered on whether the structure of the chapter 1 program is appropriate for providing per-child shares of funding to parents. The issues that need to be addressed

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[5]On several occasions, the Reagan Administration proposed that local educational agencies be authorized to provide chapter 1 funds in the form of "vouchers" to parents of chapter 1 students. Such vouchers could have been redeemed at most public or private schools. This proposal was not adopted by the Congress. See, U.S. Library of Congress. Congressional Research Service. *Education for Disadvantaged Children: Major Themes in the 1988 Reauthorization of Chapter 1.* CRS Report for Congress No. 89-7 EPW, by Wayne C. Riddle. Washington, 1989.

include the following: The chapter 1 program attempts to meet the needs of **groups** of educationally disadvantaged children, not **individual** students. Further, the provision of services depends upon having sufficient levels of resources available. As a result, the program has had a increasing emphasis on serving **concentrations** of eligible children. In addition, the children eligible for services are not identical to the children counted for purposes of allocating funds. The chapter 1 allocation formula relies on data showing relative distribution of **low income children**, while the program serves **educationally** disadvantaged children. The size of the per-child share may affect what it can and will be used for. In 1987-88 school year, the average chapter 1 grant per participating child was $696. Unless a sufficient number of these shares are pooled, some have questioned whether compensatory education services could be purchased with these per-child shares. Finally, it has been noted that chapter 1 already provides for its services to follow children who change schools during a school year, but only for the remainder of the same year.

The AMERICA 2000 legislative proposal also authorizes grants to **LEAs already operating school choice programs** that are open to private school enrollment. Federal funds would be allocated to approved districts on the basis of the distribution of chapter 1 basic and concentration grants. No district could receive more than an amount equal to the average per pupil expenditures for districts within its State multiplied by the number of children given the opportunity to participate in the district's choice program. The legislation would authorize $200 million for FY 1992 and such sums as may be necessary for the following 4 fiscal years.

The final proposal would support **national model programs of school choice**. Annually, the Secretary of Education would select different approaches to choice and award grants to State educational agencies (SEA), LEAs, and other entities to conduct such programs. Although the proposal does not specify that a private school enrollment option would be required, the definition of a choice program eligible for funding is left to the Secretary of Education. The appropriation authorization level would be $30 million and such sums as necessary for the following 4 fiscal years.

H.R. 3320

H.R. 3320, the Neighborhood Schools Improvement Act, was reported to the House from the Education and Labor Committee on November 7, 1991. Overall, the legislation seeks to stimulate statewide systemic education reform. State level panels would adopt plans that, among other elements, establish education goals to be achieved by all children and curricular frameworks based on those goals, and provide for development of instructional materials, an assessment system to measure progress toward the goals, professional development of teaching staff, and ongoing evaluation of the effectiveness of the effort. Similar plans would be developed by panels at the LEA level. Program funds could be used at the local level for various activities, including "choice programs consistent with State law and State constitutions which permit parents to select the school their children will attend." This language may permit private schools

to participate in choice programs. The bill authorizes $700 million for FY 1992 and such sums as necessary for fiscal years 1993 through 2002.

The House committee report (Report No. 102-294) stresses that the bill's language does not require a LEA to establish a choice program. The report defines three conditions under which a LEA could operate a choice program with funds authorized by the bill: the choice program is part of a comprehensive reform plan; it is authorized by State law and constitution; and its adoption was a local decision. Further, the report asserts that the inclusion of a choice program as an authorized use of funds is not intended to permit anyone to circumvent a school desegregation plan.

S. 2

S. 2, the Neighborhood Schools Improvement Act, was reported to the Senate by the Labor and Human Resources Committee on April 19, 1991. A revision to the reported bill was approved by the Labor and Human Resources Committee on November 13, 1991.[6] In general, the revision codifies the National Education Goals adopted by the President and the Governors;[7] establishes a council to report on progress toward the goals; and authorizes the Neighborhood Schools Improvement Act program.

The Neighborhood Schools Improvement Act program authorizes Federal grants to SEAs for development of education improvement plans and to individual local public schools, particularly those with "high need" based on low levels of achievement or high poverty enrollment, for a variety of reform activities. According to the revised version of the bill, in the initial year of the program, funds not otherwise needed for planning activities could be used by SEAs for professional development activities and for **efforts to increase public school choice**. In subsequent years, the Secretary of Education could permit SEAs to reserve a portion of the State grant for these same activities or other programs to improve student achievement.

The revised version of the bill authorizes $850 million for the Neighborhood Schools Improvement Act program for FY 1992 and such sums as necessary for the fiscal years 1993 through 2001.

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[6]The discussion below is based on the Nov. 22, 1991, version of the Committee revisions to the reported bill. Provisions may change before Senate floor action occurs.

[7]U.S. Library of Congress. Congressional Research Service. *National Education Goals: Federal Policy Issues*. Issue Brief No. IB91077, by Wayne Riddle, James Stedman, and Paul Irwin, Nov. 20, 1991 (continually updated). Washington, 1991.

ISSUES RELATED TO FEDERAL SUPPORT OF SCHOOL CHOICE

This concluding section of the report considers briefly several of the major issues being raised about the provision of Federal support for school choice. With the exception of the issues directly focused on involvement of private schools, the issues below, as well as others, are considered in detail in the previous CRS report, *Public School Choice*, discussed earlier. As has been noted, choice programs vary markedly in their structure, scope, and other elements. For analytical purposes, this and other limitations of existing research make it problematic that one can reach definitive conclusions about most of the issues discussed below.

Public Accountability of Private Schools

Of concern is the extent tc which private schools that participate in federally supported choice programs will be accountable to public, specifically Federal, authority. In the debate over school choice, it is not always evident what "public accountability" means. For example, the Administration posits that school choice programs supported under AMERICA 2000 should include any school, public or private, that "serves the public and is held accountable by a public authority."[8] That accountability has not been defined further.

At a minimum, public accountability may consist of (1) holding schools responsible for improving the educational achievement of their students, or (2) requiring all participating schools to meet public, particularly Federal, standards applicable to their activities. These are not mutually exclusive perspectives and may be combined.

The first perspective of public accountability is reflected in the deregulation programs that many States have initiated. These programs waive or limit some State level regulations for public schools and school districts that are judged successful on the basis of their educational outcomes, not on their strict adherence to a full panoply of regulations.[9] The **charter** or **outcome-based** schools, discussed earlier, are other examples of a new focus on academic results. As educational outcomes become **the** accountability measure in much of the reform effort, many now advocate that facilitating enrollment in private schools is appropriate because these schools are reported by some analysts to be more

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[8]U.S. Department of Education. *AMERICA 2000: An Education Strategy*. Washington, 1991. p. 31.

[9]U.S. Library of Congress. Congressional Research Service. *Conditional Deregulation of Federal Elementary and Secondary Education Programs: the America 2000 Proposal*. CRS Report for Congress No. 91-531 EPW, by Wayne Clifton Riddle. Washington, 1991.

effective in improving student performance than public schools.[10] Choice programs, it is argued, would hold participating schools, whether public or private, accountable because less effective schools would lose students and be forced to reform or close.

The second perspective of public accountability raises the question of whether all schools participating in a choice program will have to meet certain standards involving admissions, curricula, organization, financing, etc. Of particular salience for a federally funded choice program, is the prospect that participating private schools may be required to adhere to Federal civil rights statutes and regulations that are predicated on receipt of Federal assistance.[11] In at least one instance, policy guidance from the Federal Government has posited that, when private school students are receiving **services** from public schools in a Federal education program, Federal civil rights statutes apply to the private schools enrolling those students.[12] Further, at the postsecondary level,

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[10]The question of educational effectiveness is a matter of serious debate within the education research community. Much of it revolves around the adequacy of available measures of effectiveness, and around the question of controlling for the differences between persons who enroll in private schools and those who enroll in public schools.

[11]The applicable statutes include, among others, title VI of the Civil Rights Act of 1964 (race and national origin discrimination), title IX of the Education Amendments of 1972 (sex discrimination), and section 504 of the Rehabilitation Act (discrimination on the basis of handicapping condition).

[12]U.S. Department of Health, Education, and Welfare. Office for Civil Rights. Report on Nonpublic Schools Participating in Federal Programs. *Federal Register*. Aug. 23, 1976. p. 35553-35554. The language in this "Report" was described as the U.S. Department of Education's "general policy on the legal obligations of private schools under title VI of the Civil Rights Act of 1964." (Letter from Daniel Oliver, U.S Department of Education General Counsel, to Dr. Patterson Y. Lamb, Coordinator for Private Education Services, Florida State Department of Education, May 20, 1982.) Relevant language in the "Report" includes the following:

> It should be noted, however, that the children enrolled in the nonpublic school cannot participate in the public school program if the nonpublic school engages in discriminatory practices prohibited by Title VI. Even though the nonpublic school is not a recipient, any discriminatory practices by it would, in our view, directly affect the federally assisted program.

institutions are covered by civil rights statutes simply by virtue of enrolling students who receive Federal financial aid, such as Pell grants.[13]

The debate over this second approach to accountability involves such issues as whether it is appropriate for public funds to support, no matter how indirectly, institutions that do not adhere to Federal civil rights standards, and whether compliance to Federal requirements by private schools would threaten their distinctiveness and adversely affect their educational effectiveness.

Constitutionality of Private School Choice

Constitutionally, can private, sectarian schools be involved in publicly funded choice programs? Concern about the constitutionality of such a program arises because most private school students are enrolled in **sectarian** schools. Thus, at issue is whether this form of public aid violates the First Amendment to the Constitution which proscribes governmental action to establish religion or to prohibit the free exercise of religion.[14] It is beyond the scope of this report to consider, in detail, the constitutionality of a publicly funded, and particularly a federally funded, school choice program open to private, sectarian schools. The discussion below is a brief overview of some of the relevant elements of the issue.

The U.S. Supreme Court has found some kinds of public aid to sectarian schools acceptable under the U.S. Constitution. These include public subsidy of secular teaching and auxiliary services provided to private school children away from their schools, bus transportation to and from school, school lunches, and some health services. In addition, the Court has found constitutional a State income tax deduction program for educational expenses whose benefits are available to the parents of public and private elementary and secondary school children.

Forms of public aid found unconstitutional by the Supreme Court include: State programs of salary supplements to private school teachers of secular subjects, support for private school students' transportation for field trips, the teaching of private sectarian school students by public school teachers on private school premises, and State income tax relief targeted on the education expenses incurred by parents of private school children only.

There is no certainty as to how the Supreme Court would rule on a publicly funded, or specifically a federally funded, school choice program involving sectarian schools. Important considerations would include how the program is

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[13]See discussion in U.S. Library of Congress. Congressional Research Service. *The Civil Rights Restoration Act of 1987: Legal Analysis of P.L. 100-259.* CRS Report for Congress No. 88-171 A, by Karen J. Lewis and Charles V. Dale. Washington, 1988.

[14]See, for example, Data Research, Inc. *Private School Law in America.* Rosemount, Minn., 1991. Chapter 4.

structured and the characteristics of schools actually participating in the program.

Effects of Choice on Educational Quality

The issue here is whether choice will generate improvement in the education provided to students, particularly the education provided by public schools. Proponents assert that choice will require public schools to compete for students. In so doing, the schools will either come to provide students with a higher quality education or will cease operation as a sufficient number of students leave. Further, it is argued, that choice will improve education by increasing parents' involvement in their children's educational experience. Opponents counter that the competition generated by choice will not function so neatly with regard to educational quality. They are concerned that, rather than sparking improvement, the loss of students and financial resources will leave some schools less able to improve but still responsible for educating many students unwilling or unable to leave.

The research evidence with regard to the effects of school choice on educational quality is decidedly mixed.[15] Various kinds of choice programs have been scrutinized, frequently with limited data. Compounding the research difficulties on this topic is the self-selection of students. That is, the students and families who change schools under a choice program may be more likely to have certain characteristics associated with higher levels of academic achievement than other apparently comparable students and families who elect to remain in their current school. Useful analysis, yet to be undertaken, should assess the impact of choice not only on students who exercise that option, but also on the students who do not change schools and on the schools in which they remain enrolled.

Effects of Choice on Racial and Ethnic Segregation

Choice has strong historical links to school desegregation, both as an approach used in the 1950s and 1960s to thwart the dismantling of segregated school systems, and more recently in the form of magnet schools as a way to desegregate schools voluntarily. The consequences of expanded school choice programs for racial and ethnic segregation among students are being debated.[16] Proponents of choice argue that many minority students and parents do not have the economic and other resources necessary to select their schools, either by enrolling in private schools or moving to another school attendance area or school district. As a result, it is argued, racial and ethnic minorities are increasingly isolated in schools. Critics counter that choice programs would encourage white flight, that is, the changing of schools by white students in order to avoid enrolling with minorities, and may include barriers to

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[15]See, Congressional Research Service, *Public School Choice*. p. 19-22.

[16]See, Congressional Research Service, *Public School Choice*. p. 23-26.

participation by minorities, such as inadequate dissemination of information about choice options and limits on subsidy of transportation costs.

The consequences for racial and ethnic segregation of the implementation of choice *per se* are **not** predetermined. As has been shown, there is no single choice model. The diversity among the different kinds of choice programs, the possibility of establishing careful controls on the racial and ethnic consequences of choice, the attention to such factors as transportation costs and information dissemination that might affect minority participation--all serve to make any definitive conclusion about the impact of choice on minority segregation problematic. As a result, support for, or opposition to, choice in terms of racial and ethnic segregation is most meaningful when focused on a specific choice program, not choice in general.

Effects of Choice on Socioeconomic Distribution of Students

The arguments with regard to the consequences of choice for students from different socioeconomic backgrounds are similar to those made concerning minority segregation.[17] Proponents assert that choice promotes equity by enabling economically disadvantaged students to have educational options, something heretofore reserved for those students and families with the requisite economic resources. Opponents reply that choice may exacerbate current inequities because the most disadvantaged students and families may be the least likely and least able to take the steps needed to change schools. Their inaction on behalf of their children, it is argued, may be only partly a function of limited economic resources.

The available research on this issue is even more circumscribed than that for minority segregation. Despite its potential importance, this issue has surfaced somewhat indirectly as part of the concern that some parents, and not others, will be more likely and more able to take advantage of choice options. In the final analysis, the concerns of opponents may be addressed by careful structuring of a choice program, one that may not involve unfettered choice options.

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[17]See, Congressional Research Service, *Public School Choice*. p. 25-26.